

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

BILLY RAY BRADLEY, #36881

PETITIONER

VERSUS

CIVIL ACTION NO. 4:09-cv-108-HTW-LRA

MARGARETT BINGHAM, Superintendent of CMCF

RESPONDENT

ORDER

This matter comes before this Court, sua sponte, for consideration of the transfer of this cause. The Petitioner, an inmate currently incarcerated in the Central Mississippi Correctional Facility (CMCF), Pearl, Mississippi, filed this request for habeas corpus relief pursuant to Title 28 U.S.C. § 2254. In this Petition, Bradley is challenging his conviction for possession of a weapon by a convicted felon entered by the Circuit Court of Lauderdale County, Mississippi and his habitual offender sentence of life imprisonment in the custody of the Mississippi Department of Corrections.

The Petitioner previously filed for habeas relief in this Court challenging this same conviction and sentence, in civil action number 4:06-cv-127-DPJ-JCS. On March 24, 2008, this Court entered a Final Judgment [33] which dismissed the action, with prejudice.

A petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. Title 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the interest of justice, pursuant to Title 28 U.S.C. § 1631, this cause should be transferred to the

United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. *See In Re Epps*, 127 F.3d 364 (5th Cir. 1997).

Accordingly, it is hereby,

ORDERED that this petition for habeas corpus relief be, and the same hereby is, transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 31st day of August, 2009.

s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE

Civil Action No. 4:09-cv-108 HTW-LRA
Order